PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of	Docket No: Q64971
Ludo GYS	
Appln. No.: 09/891,264	Group Art Unit: 2152
Confirmation No.: 1632	Examiner: Dohm CHANKONG
Filed: June 27, 2001	

For: METHOD OF SERVICE PROVISION IN A COMMUNICATIONS NETWORK
AND FURTHERMORE PROGRAM MODULES AND MEANS THEREFOR

SUBMISSION OF APPEAL BRIEF

MAIL STOP APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith please find an Appeal Brief. A check for the statutory fee of $500.00 is attached. The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account. A duplicate copy of this paper is attached.

Respectfully submitted,

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WASHINGTON OFFICE
23373
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Date: December 14, 2005

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APPEAL BRIEF UNDER 37 C.F.R. § 41.37

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Sir:

In accordance with the provisions of 37 C.F.R. § 41.37, Appellant submits the following:

Table of Contents

I.   REAL PARTY IN INTEREST

Based on information supplied by the Appellant and to the best knowledge of the

Appellant's legal representatives, the real party in interest here is the assignee, Alcatel , by virtue

of an Assignment executed on June 20, 2001 and recorded on June 27, 2001 at Reel 011943,

Frame 0194.

II.   RELATED APPEALS AND INTERFERENCES

To the best of their knowledge, there are no other related appeals or interferences known to Appellant, Appellant's legal representatives or the assignee that will directly affect, will be directly affected by or have a bearing on the Board's decision in the pending Appeal.

III.   STATUS OF CLAIMS

Claims 1-11 are all the claims pending in the application. Claims 1, 7, 8, 9, 10 and 11 are independent claims.

Claims 1-11 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Yates *et al.* (U.S. Patent No. 6,330,586) in view of Beck *et al.* (U.S. Patent No. 6,604,140).

IV.   STATUS OF AMENDMENTS

The Amendment Under 37 C.F.R. § 1.116, filed on July 25, 2005, editorially amended the specification, as well as claims 1-11. The Advisory Action mailed on August 19, 2005 indicated that, for purposes of appeal, the amendments to the application would be entered. Therefore, all amendments to the claims, which have been made during the prosecution of the present application, have been entered.

V.   SUMMARY OF THE CLAIMED SUBJECT MATTER

Claim 1 recites a method for providing personal services for a user's communication means. The exemplary communication means (TERA, TERB) are described at page 6, lines 9-18 of the specification and are shown in Figure 1. The communication means are connected to a communication network. A service server transmits a first service container containing a service machine to a service computer. *See* page 7, line 24 – page 8, line 9; Figure 1 of the specification. The service computer executes the service machine, which manages the execution of a personal service for the communication means. *See* page 7, line 24 – page 8, line 9; page 10, line 28 – page 11, line 11; Figure 1 of the specification. The service computer provides at least one network lock for the first service container, which offers a predefined interface to the communication network to the first service container for the provision of the personal service. *See* page 11, lines 11-29; page 12, lines 9-27; Figure 1 of the specification. The service machine, in order to provide the personal service, executes or applies at least one service component that was transmitted to the service computer via the first service container or via a second service container. *See* page 11, lines 25-29; page 12, line 13 – page 13, line 12; Figure 1 of the specification.

Claim 7 recites a service computer for providing personal services for a user's communication means. The exemplary communication means (TERA, TERB) are described at page 6, lines 9-18 of the specification and are shown in Figure 1. The communication means are connected to a communication network. *See* Figure 1. The service computer comprises receiving means for receiving a first service container containing a service machine from a service server. *See* page 7, line 24 – page 8, line 9; Figure 1 of the specification. The receiving

means (TRSC, CONL) are described at page 7, lines 14-18 and page 10, lines 13-15 of the

specification and are shown in Figure 1. The service computer further comprises network lock

means that allow the service computer to provide at least one network lock for the first service

container. *See* page 11, lines 12-29; Figure 1 of the specification. The network lock means

(NWL, TRSC) are described at page 11, lines 12-29 and are shown in Figure 1. The network

lock provides a predefined interface to the communication network to the first service container

for providing a personal service for the communication means. *See* page 11, lines 12-29; page

12, lines 9-27; Figure 1 of the specification. The service computer further comprises execution

means for the execution of the service machine. The execution means (CPUSC, SCM) are

described at page 7, lines 17-21 and page 8, lines 1-8 of the specification and are shown in

Figure 1. The service machine manages the provision of the personal service for the

communication means, and executes or applies at least one service component for provision of

the personal service. *See* page 11, lines 25-29; Figure 1 of the specification. The service

component is transmitted to the service computer via the first service container or via a second

service container. *See* page 11, lines 25-29; page 12, line 13 – page 13, line 12; Figure 1 of the

specification.

Claim 8 recites a service computer module for a service computer for a user's

communication means. The exemplary communication means (TERA, TERB) are described at

page 6, lines 9-18 of the specification and are shown in Figure 1. The communication means are

connected to a communication network. *See* Figure 1. The service computer module comprises

program code able to be executed by a control means of the service computer. *See* page 8, lines

1-8 of the specification. The control means (CPUSC) are described at page 7, lines17-21 of the

specification and are shown in Figure 1. The service module further comprises receiving means

for receiving of a first service container containing a service machine from a service server. *See*

page 7, line 24 – page 8, line 9; Figure 1 of the specification. The receiving means (CONL) are

described at page 7, lines 14-18 and page 10, lines 13-15 of the specification and are shown in

Figure 1. The service computer module further comprises network lock means so the service

computer can provide at least one network lock for the first service container. *See* page 12, lines

9-27 of the specification. The network lock means (NWL) are described at page 11, lines 12-29

of the specification and are shown in Figure 1. The network lock provides a predefined interface

to the communication network to the first service container for provision of a personal service

for the communication means. *See* page 12, lines 9-27 of the specification. The service

computer further comprises execution means to execute the service machine. The execution

means (SCM) are described at page 8, lines 1-8 of the specification and are shown in Figure 1.

The service machine manages the provision of the personal service for the communication means

by executing or applying at least one service component for provision of the personal service.

See page 11, lines 25-29; page 12, line 13 – page 13, lines 12; Figure 1 of the specification. The

service component is transmitted to the service computer via the first service container or via a

second service container. *See* page 11, lines 25-29; page 12, line 13 – page 13, lines 12; Figure 1

of the specification.

Claim 9 recites a service server for providing personal services for a user's

communication means. The exemplary communication means (TERA, TERB) are described at

page 6, lines 9-18 of the specification and are shown in Figure 1. The communication means are

connected to a communication network. *See* Figure 1. The service server comprises receiving

means for receiving a request for a personal service for the communication means. The

receiving means (TRSV) are described at page 8, lines 9-17 of the specification and are shown in

Figure 1. The service server further comprises provision means for providing at least one first

service container. The provision means (SSM, SCE, DB) are described at page 8, lines 13-21 of

the specification and are shown in Figure 1. The first service container contains a service

machine that manages the execution of the personal service. *See* page 7, lines 24 – page 8, line

8; page 10, lines 28 – page 11, line 11; Figure 1 of the specification. The service machine

executes or applies at least one service component for the service provision. The service

machine is executed by a service computer, and the service component is contained in the first

service container or in a second service container. *See* page 11, lines 25-29; page 12, line 13 –

page 13, line 12; Figure 1 of the specification. The at least one first service container uses of at

least one network lock provided by the service computer, and the network lock offers, to the at

least one first service container, a predefined interface to the communication network. *See* page

7, line 24 – page 8, line 8; page 10, line 28 – page 11, line 11; Figure 1 of the specification. The

service server further comprises transmission means for transmission of the at least one first

service container to the service computer. The transmission means (TRSV) are described at page

8, lines 11-14, 16-24 and are shown in Figure 1.

Claim 10 recites a service server module for a service server for providing personal

services for a user's communication means. The exemplary communication means (TERA,

TERB) are described at page 6, lines 9-18 of the specification and are shown in Figure 1. The

communication means are connected to a communication network. *See* Figure 1. The service

server module comprises program code able to be executed by a control means of the service

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server. *See* page 8, lines 1-8; Figure 1 of the specification. The service server module further

comprises receiving means for receiving a request for a personal service for the communication

means. The receiving means are described at page 8, lines 9-17 of the specification and are

shown in Figure 1. The service server module further comprises provision means for providing

at least one first service container, which contains a service machine able to manage the

execution of the personal service. The provision means (SSM, SCE, DB) are described at page

8, lines 13-21 of the specification and are shown in Figure 1. The service machine executes or to

applies at least one service component for the service provision. The service machine is

executed by a service computer, and the service component is contained in the first service

container or in a second service container. *See* page 11, lines 25-29; page 12, line 13 – page 13,

line 12; Figure 1 of the specification. The at least one first service container uses at least one

network lock provided by the service computer. The network lock offers, to the at least one first

service container, a predefined interface to the communication network. *See* page 7, line 24 –

page 8, line 8; page 10, line 28 – page 11, line 11; Figure 1 of the specification. The service

server module further comprises transmission means for transmission of the at least one first

service container to the service computer. The transmission means are described at page 8, lines

9-25 of the specification and are shown in Figure 1.

Claim 11 recites a first service container for providing personal services for a user's

communication means. The exemplary communication means (TERA, TERB) are described at

page 6, lines 9-18 of the specification and are shown in Figure 1. The communication means are

connected to a communication network. *See* Figure 1. The first service container comprises

program code able to be executed by a control means of a service computer. The first service

container comprises a service machine that manages the execution of a personal service, and the service machine executes or applies at least one service component for the service provision. *See* page 11, lines 25-29; page 12, line 13 – page 13, line 12; Figure 1 of the specification. The service machine is executed by the service computer, and the service component is contained in the first service container or in a second service container. *See* page 11, lines 25-29; page 12, line 13 – page 13, line 12; Figure 1 of the specification. The first service container uses at least one network lock provided by the service computer, and the network lock offers, to the first service container, a predefined interface to the communication network. *See* page 7, line 24 – page 8, line 8; page 10, line 28 – page 11, line 11; Figure 1 of the specification.

VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A.   Claims 1-11 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over

Yates *et al.* (U.S. Patent No. 6,330,586) in view of Beck *et al.* (U.S. Patent No. 6,604,140).

VII.   ARGUMENT

Claims 1-11 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over

Yates *et al.* (U.S. Patent No. 6,330,586) in view of Beck *et al.* (U.S. Patent No. 6,604,140).

Applicant respectfully traverses the § 103(a) rejection of claims 1-11 for at least the reasons

discussed below.

In the Rule 111 Response dated March 14, 2004, Applicant argued that the § 103(a)

rejection of claim 1 is improper. Applicant provided the following four reasons.

First, Applicant argued that the Patent Office's combination of Yates *et al.* and Beck *et*

al. is improper because the references solve different problems: Yates *et al.* disclose, *inter alia*, a

service provision system for providing different services, supplied by multiple vendors, over one

or multiple communications networks. Beck *et al.* disclose, *inter alia*, a method that enables a

computing device to discover and use services provided by other computing devices, and

download the service software from the other computing devices when the service is used.

The Patent Office argues that Yates *et al.*'s agent is constructed from a combination of

three component object types: Service Independent Building Blocks (SIBBs) 301, adaptors 302

and coordinators 303 that may be added or removed dynamically. The adaptors 302 can contain

processes for establishing appropriate interfaces and protocols, and might either contain

standards, interfaces and protocols as data. In addition, in Beck *et al.*, the object that is

transmitted to a service computer contains "an interface, an implementation, and an adapter" that

define the set of operations that the service can perform on behalf of the client. Further,

allegedly combining the object transmission feature of Beck *et al.* with Yates *et al.* can aid Yates

et al.'s goal of "adding and evolving functionality and capability to software and hardware of the

agents, and especially to maximize software and hardware reuse. Applicant respectfully disagrees.

As Applicant argued before, Beck *et al.* disclose sharing service implementations between devices 101 and 121 having similar modules, like PDAs (Beck *et al.*, col. 3, lines 48-49). The Patent Office has asserted that the terminal domain 101 in Yates *et al.* discloses the recited service computer, and a terminal teaches the service server. However, the terminal and the terminal domain are very different. There is no reason for a skilled artisan to apply the transfer of service implementation between devices having similar modules to the terminal and terminal domain.

In addition, according to the Patent Office's reasoning, the purpose of the transmission of adapters in Yates *et al.* should be for the reconfiguration of the hardware or software of the agents, and the adapters transferred should be constituting parts of the agents. However, in Beck *et al.*, what is transferred is the server implementation, instead of the constituting parts of the device. There is no reason for a skilled artisan to pick the service implementation transfer between similar devices in Beck *et al.* and add it to Yates *et al.* for the reconfiguration of the modules.

Second, Applicant previously argued that the Patent Office's combination of Yates *et al.* and Beck *et al.* is improper because the system of Yates *et al.* and the system of Beck *et al.* operate according to different principles. The combination of the two references unavoidably changes the principle of operation of the references.

The Patent Office argues that Beck *et al.* was relied upon merely to disclose the functionality of transmitting service containers between devices over a network, that Yates *et al.*

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is applicable to mobile radio and that both Yates *et al.* and Beck *et al.* are directed toward object-oriented principles.

However, in Beck *et al.*, the service interface, adapter and implementation are transmitted among devices 101 and 121 having similar modules, like PDAs (Beck *et al.*, col. 3, lines 48-49). The Patent Office argues that the adapter in Yates *et al.* could be transmitted from a terminal to the terminal domain. However, the terminal and the terminal domain are very different. Although the references are both applicable to mobile radio, and are both directed toward object-oriented principles, the combination of the two references will still avoidably change the principle of operation of the references.

Third, Applicant previously argued that the Patent Office fails to point out which part in Yates *et al.* teaches or suggests the recited at least one service component. The Patent Office argues that the policies executed by Yates *et al.*'s object teach the service component. Applicant respectfully disagrees.

In the invention of claim 1, the service machine is included in the at least one service component. The Patent Office has asserted that the code and SIBBs of Yates *et al.*'s modules teach the service machine. However, according to the portions of Yates *et al.* cited by the Patent Office, the policy is either embedded in the object, or downloaded from a policy data store 1104 shown in Fig. 11. Obviously, the code and SIBB of Yates *et al.*, constituting parts of the agents, are not included in the policies.

Thus, Yates *et al.* fail to teach or suggest the recited at least one service component. Accordingly, Applicant respectfully resubmits that even if a skilled artisan were to combine the

two references, as the Patent Office has suggested, the combination would not result into the claimed invention.

Fourth, Applicant previously argued that the Patent Office fails to point out which part in his combination of Yates *et al.* and Beck *et al.* teaches the communication means.

The Patent Office argues that Beck *et al.* is relied upon only for disclosing the functionality of transmitting service containers between devices over a network. Applicant respectfully disagrees.

Again, Beck *et al.* only teaches sharing service implementations between two devices having similar modules. However, in the invention recited in claim 1, the service container is transmitted by a service server to a service computer to manage the execution of personal services of communication means. The method of Beck *et al.* involves only two similar devices, but the claimed invention involves three different parties: the service server, the service computer and the communication means. Even if Beck *et al.* is only used to teach the functionality of transmitting service containers between devices over a network, the functionality of Beck *et al.* fails to teach or suggest the transmission of the service container of the claimed invention.

Accordingly, Applicant resubmits that even if a skilled artisan were to combine Yates and Beck, as suggest by the Patent Office, the combination would not result in the claimed invention.

Based on the foregoing reasons, Applicant submits that claim 1 is allowable over the combination of Yates *et al.* and Beck *et al.*, and further submits that claims 2-6 are allowable as well, at least by virtue of their dependency from claim 1. Applicant respectfully requests that the Patent Office reconsider and withdraw the § 103(a) rejection of claims 1-6.

With respect to independent claims 7-11, Applicant submits that claims 7-11 are

allowable over the combination of Yates *et al.* and Beck *et al.* for at least reasons analogous to

those discussed above with respect to claim 1. Applicant respectfully requests that the Patent

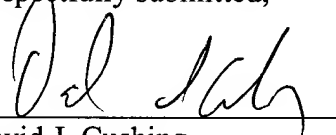Office reconsider and withdraw the § 103(a) rejection of claims 7-11.

VIII.   CONCLUSION

It is respectfully requested that the Board of Patent Appeals and Interferences reverse the

rejection of claims 1-11 as being unpatentable under 35 U.S.C. § 103(a) over Yates *et al.* (U.S.

Patent No. 6,330,586) in view of Beck *et al.* (U.S. Patent No. 6,604,140).

Unless a check is submitted herewith for the fee required under 37 C.F.R. §41.37(a) and

1.17(c), please charge said fee to Deposit Account No. 19-4880.

The USPTO is directed and authorized to charge all required fees, except for the Issue

Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any

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Respectfully submitted,

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Date: December 14, 2005

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CLAIMS APPENDIX

CLAIMS 1-11 ON APPEAL:

1.   A method for providing personal services for a communication means of a user, said communication means being connected to a communication network, wherein the method comprises:

transmission by a service server of a first service container containing a service machine to a service computer,

execution by said service computer of said service machine, said service machine managing the execution of a personal service for said communication means,

provision by said service computer of at least one network lock for said first service container, said at least one network lock offering to said first service container a predefined interface to said communication network for the provision of said personal service, and

provision of said personal service by execution or by application by said service machine of at least one service component being transmitted to said service computer via said first service container or via a second service container.

2.   The method as claimed in claim 1, wherein provisioning by the service computer of at least one monitor lock for said first service container, via said at least one monitor lock said first service container informs the service server of a condition of the service computer.

3.   The method as claimed in claim 1, wherein provisioning by the service computer of at least one management lock for said first service container, via said at least one management lock said first service container sends alarms to an operator terminal or a network management system.

4.   The method as claimed in claim 1, wherein said terminal sends a request for said service to the service server.

5.   The method as claimed in claim 1, wherein said method is executed in an Intelligent Network representing said communication network.

6.   The method as claimed in claim 1, wherein the service computer provides the a resource lock for said first service container, said resource lock offering to said first service container an application program interface and/or an interface towards a special resource point and/or an interface towards a service program interface.

7.   A service computer for providing personal services for a communication means of a user, said communication means being connected to a communication network,

said service computer comprising receiving means for receiving of a first service container containing a service machine from a service server,

said service computer comprising network lock means designed such that the service computer can provide at least one network lock for said first service container, said at least one network lock offering to said first service container a predefined interface to said communication network for provision of a personal service for said communication means and

said service computer comprising execution means designed such that the service computer can execute said service machine, said service machine managing the provision of said personal service for said communication means and said service machine executing or applying at least one service component for provision of said personal service, said service component being transmitted to said service computer via said first service container or via a second service container.

8.   A service computer module for a service computer for providing personal services

for a communication means of a user, said communication means being connected to a

communication network,

said service computer module containing program code able to be executed by a control

means of the service computer,

said service module comprising receiving means for receiving of a first service container

containing a service machine from a service server,

said service computer module comprising network lock means designed such that the

service computer can provide at least one network lock for said first service container, said at

least one network lock offering to said first service container a predefined interface to said

communication network for provision of a personal service for said communication means and

said service computer module comprising execution means designed such that the service

computer can execute said service machine, said service machine managing the provision of said

personal service for said communication means and said service machine executing or applying

at least one service component for provision of said personal service, said service component

being transmitted to said service computer via said first service container or via a second service

container.

9.   A service server for providing personal services for a communication means of a

user, said communication means being connected to a communication network,

said service server comprising receiving means for receiving a request for a personal

service for said communication means,

said service server comprising provision means for providing at least one first service

container, containing a service machine able to manage the execution of said personal service

and said service machine further able to execute or to apply at least one service component for

said service provision, when said service machine is executed by a service computer, said service

component being contained in said first service container or in a second service container, and

said at least one first service container being adapted to make use of at least one network

lock provided by said service computer and offering to said at least one first service container a

predefined interface to said communication network, and

said service server comprising transmission means for transmission of said at least one

first service container to said service computer.

10.   A service server module for a service server for providing personal services for a

communication means of a user, said communication means being connected to a

communication network,

said service server module containing program code able to be executed by a control

means of the service server,

said service server module comprising receiving means for receiving a request for a

personal service for said communication means,

said service server module comprising provision means for providing at least one first

service container, containing a service machine able to manage the execution of said personal

service and said service machine further able to execute or to apply at least one service

component for said service provision, when said service machine is executed by a service

computer, said service component being contained in said first service container or in a second

service container, and

said at least one first service container being adapted to make use of at least one network

lock provided by said service computer and offering to said at least one first service container a

predefined interface to said communication network, and

said service server module comprising transmission means for transmission of said at

least one first service container to said service computer.

11.   A first service container for providing personal services for a communication

means of a user, said communication means being connected to a communication network,

said first service container containing program code able to be executed by a control

means of a service computer,

said first service container containing a service machine able to manage the execution of

a personal service and said service machine further able to execute or to apply at least one

service component for said service provision, when said service machine is executed by said

service computer, said service component being contained in said first service container or in a

second service container, and

said first service container being adapted to make use of at least one network lock

provided by said service computer and offering to said first service container a predefined

interface to said communication network.

EVIDENCE APPENDIX

Pursuant to 37 C.F.R. § 41.37(c)(1)(ix), evidence submitted pursuant to 37 C.F.R. §§

1.130, 1.131, or 1.132 or any other evidence entered by the Examiner and relied upon by

Appellants in the Appeal:

NONE.

RELATED PROCEEDINGS APPENDIX

Copies of decisions rendered by a court or the Board in any proceeding identified about

in Section II pursuant to 37 C.F.R. § 41.37(c)(1)(ii) submitted herewith:

NONE.